

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

May 5, 2021

3:16 p.m.

**DRAFT**

**MEMBERS PRESENT**

Representative Zack Fields, Co-Chair  
Representative Ivy Spohnholz, Co-Chair  
Representative Calvin Schrage  
Representative Liz Snyder  
Representative David Nelson  
Representative James Kaufman  
Representative Ken McCarty

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 21

"An Act relating to mobile intensive care paramedics; relating to duties of the State Medical Board and the Department of Health and Social Services; and providing for an effective date."

- MOVED HCS SB 21(L&C) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 19

Supporting widespread infrastructure investment in the state.

- MOVED CSHJR 19(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 159

"An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements; making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

- HEARD & HELD

PRESENTATION(S): WOMEN IN THE WORKFORCE & THE GENDER PAY GAP

- HEARD

## PREVIOUS COMMITTEE ACTION

BILL: SB 21

SHORT TITLE: LICENSE MOBILE INTENSIVE CARE PARAMEDICS

SPONSOR(s): SENATOR(s) REVAK

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	HSS, L&C
03/02/21	(S)	HSS AT 1:30 PM BUTROVICH 205
03/02/21	(S)	Heard & Held
03/02/21	(S)	MINUTE(HSS)
03/04/21	(S)	HSS AT 1:30 PM BUTROVICH 205
03/04/21	(S)	Moved SB 21 Out of Committee
03/04/21	(S)	MINUTE(HSS)
03/05/21	(S)	HSS RPT 3DP 1NR
03/05/21	(S)	DP: WILSON, COSTELLO, HUGHES
03/05/21	(S)	NR: BEGICH
03/15/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/15/21	(S)	Moved SB 21 Out of Committee
03/15/21	(S)	MINUTE(L&C)
03/17/21	(S)	L&C RPT 4DP
03/17/21	(S)	DP: STEVENS, GRAY-JACKSON, REVAK, HOLLAND
03/22/21	(S)	TRANSMITTED TO (H)
03/22/21	(S)	VERSION: SB 21
03/24/21	(H)	READ THE FIRST TIME - REFERRALS
03/24/21	(H)	HSS, L&C
04/13/21	(H)	HSS AT 3:00 PM DAVIS 106
04/13/21	(H)	Heard & Held
04/13/21	(H)	MINUTE(HSS)
04/15/21	(H)	HSS AT 3:00 PM DAVIS 106
04/15/21	(H)	Moved SB 21 Out of Committee
04/15/21	(H)	MINUTE(HSS)
04/16/21	(H)	HSS RPT 5DP 2NR
04/16/21	(H)	DP: FIELDS, SPOHNHOLZ, MCCARTY, PRAX, SNYDER
04/16/21	(H)	NR: KURKA, ZULKOSKY
04/30/21	(H)	L&C AT 8:00 AM GRUENBERG 120
04/30/21	(H)	Heard & Held
04/30/21	(H)	MINUTE(L&C)
05/05/21	(H)	L&C AT 3:15 PM BARNES 124

BILL: HJR 19

SHORT TITLE: SUPPORTING INVESTMENT IN INFRASTRUCTURE

SPONSOR(s): LABOR & COMMERCE

04/28/21	(H)	READ THE FIRST TIME - REFERRALS
04/28/21	(H)	L&C
04/28/21	(H)	L&C AT 3:15 PM BARNES 124
04/28/21	(H)	Heard & Held
04/28/21	(H)	MINUTE (L&C)
05/03/21	(H)	L&C AT 3:15 PM BARNES 124
05/03/21	(H)	Moved CSHJR 19 (L&C) Out of Committee
05/03/21	(H)	MINUTE (L&C)
05/05/21	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 159

SHORT TITLE: CONSUMER DATA PRIVACY ACT

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/31/21	(H)	READ THE FIRST TIME - REFERRALS
03/31/21	(H)	L&C, JUD, FIN
04/23/21	(H)	L&C AT 8:00 AM GRUENBERG 120
04/23/21	(H)	Heard & Held
04/23/21	(H)	MINUTE (L&C)
05/05/21	(H)	L&C AT 3:15 PM BARNES 124

#### **WITNESS REGISTER**

SENATOR JOSH REVAK  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, provided information and answered questions during the hearing on SB 21.

JOSEPH JEROME, Director of Platform Accountability and State Advocacy  
Common Sense Media  
Washington, D.C.

**POSITION STATEMENT:** Provided testimony during the hearing on HB 159.

CAITRIONA FITZGERALD, Deputy Director  
Electronic Privacy Information Center  
Washington, D.C.

**POSITION STATEMENT:** Provided testimony during the hearing on HB 159.

HAYLEY TSUKAYAMA, Legislative Activist  
Electronic Frontier Foundation  
San Francisco, California

**POSITION STATEMENT:** Provided testimony during the hearing on HB 159.

MAUREEN MAHONEY, Senior Policy Analyst  
Consumer Reports  
Yonkers, New York

**POSITION STATEMENT:** Provided testimony during the hearing on HB 159.

CHRIS KOA, Attorney  
DataEsque Law Group PLLC  
Seattle, Washington

**POSITION STATEMENT:** Provided testimony during the hearing on HB 159.

KARINNE WIEBOLD, Economist  
Research and Analysis  
Administrative Services Division  
Department of Labor and Workforce Development  
Juneau, Alaska

**POSITION STATEMENT:** Presented a PowerPoint on Women in the Workforce & the Gender Pay Gap.

LAURIE WOLF, President and Chief Executive Officer  
The Foraker Group  
Anchorage, Alaska

**POSITION STATEMENT:** Gave a PowerPoint presentation on Women in the Workforce & the Gender Pay Gap.

HILARY MORGAN, President and Chief Executive Officer  
Resourceful Results, LLC  
Anchorage, Alaska

**POSITION STATEMENT:** Gave a PowerPoint presentation on Women in the Workforce & the Gender Pay Gap.

#### **ACTION NARRATIVE**

[3:16:40 PM](#)

**CO-CHAIR ZACK FIELDS** called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Spohnholz, Fields, McCarty, and Snyder were present at the call to order. Representatives Schrage, Kaufman, and Nelson arrived as the meeting was in progress.

#### **SB 21-LICENSE MOBILE INTENSIVE CARE PARAMEDICS**

[3:17:35 PM](#)

CO-CHAIR FIELDS announced that the first order of business would be SENATE BILL NO. 21, "An Act relating to mobile intensive care paramedics; relating to duties of the State Medical Board and the Department of Health and Social Services; and providing for an effective date."

[3:17:50 PM](#)

REPRESENTATIVE SNYDER moved to adopt Amendment 1 to SB 21, labeled 32-LS0207\B.3, Fisher, 5/4/21, which read as follows:

Page 1, line 1, following "Act":

Insert **"relating to occupational licensing of members of the military and their spouses;"**

Page 1, following line 4:

Insert new bill sections to read:

**"\* Section 1.** AS 08.01.063(a) is amended to read:

(a) Except as provided in (d) of this section, and notwithstanding another provision of law, the department or appropriate board shall [MAY] issue a temporary courtesy license to an active duty member of the armed forces of the United States or the spouse of an active duty member of the armed forces of the United States if the active duty member or spouse meets the requirements of this section and applies to the department or appropriate board in the manner prescribed by the department or appropriate board. An application must include evidence satisfactory to the department or appropriate board that the applicant

(1) is an active duty member of the armed forces of the United States or is married to and living with a member of the armed forces of the United States who is on active duty and assigned to a duty station in this state under official active duty military orders;

(2) holds a current license or certificate in another state, district, or territory of the United States with requirements that the department or appropriate board determines are equivalent to those established under this title for that occupation;

(3) if required by the department or appropriate board for obtaining a license in the applicant's profession, has been fingerprinted and has provided the fees required by the Department of Public

Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(4) has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation under this title at the time the act was committed;

(5) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and

(6) pays any fees required under this title.

\* **Sec. 2.** AS 08.01.063(b) is amended to read:

(b) The department or appropriate board shall issue a temporary license under this section to a person who meets the requirements [EXPEDITE THE PROCEDURE FOR ISSUANCE OF A LICENSE] under (a) of this section within 30 days after the department or appropriate board receives the person's completed application for the temporary license."

Page 1, line 5:

Delete "Section 1"

Insert "Sec. 3"

Renumber the following bill sections accordingly.

Page 7, line 25:

Delete "sec. 1"

Insert "sec. 3"

Page 7, line 26:

Delete "sec. 1"

Insert "sec. 3"

Page 7, line 29:

Delete "sec. 1"

Insert "sec. 3"

Page 8, line 1:  
Delete "secs. 8 and 9"  
Insert "secs. 10 and 11"

Page 8, line 9:  
Delete "sec. 1"  
Insert "sec. 3"

Page 8, line 10:  
Delete "secs. 8 and 9"  
Insert "secs. 10 and 11"

Page 8, line 11:  
Delete "Section 17(c)"  
Insert "Section 19(c)"

Page 8, line 12:  
Delete "sec. 18"  
Insert "sec. 20"

[3:17:54 PM](#)

CO-CHAIR FIELDS objected for the purpose of discussion.

[3:17:54 PM](#)

REPRESENTATIVE SNYDER pointed out that AS 08.01.063 addresses licensure for the spouses of military members, but not the military members themselves. She said the language in Amendment 1 would provide temporary licensure opportunities to active duty military personnel.

[3:18:49 PM](#)

REPRESENTATIVE MCCARTY stated his belief that similar legislation had been passed "several years ago," and he asked whether this amendment would duplicate that legislation.

REPRESENTATIVE SNYDER expressed that Representative McCarty may be referring to SB 86, which included language similar to Amendment 1, but said that SB 86 had been withdrawn.

[3:20:10 PM](#)

SENATOR JOSH REVAK, Alaska State Legislature, stated his support for Amendment 1 as prime sponsor of SB 21.

[3:20:44 PM](#)

REPRESENTATIVE NELSON thanked Representative Snyder for the amendment and shared his desire to undertake more "comprehensive" legislation in the future.

[3:20:58 PM](#)

CO-CHAIR FIELDS removed his objection. There being no further objection, Amendment 1 to SB 21 was adopted.

[3:21:11 PM](#)

CO-CHAIR SPOHNHOLZ moved to report SB 21, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS SB 21(L&C) was reported out of the House Labor and Commerce Standing Committee.

#### **HJR 19-SUPPORTING INVESTMENT IN INFRASTRUCTURE**

[3:21:45 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 19, "Supporting widespread infrastructure investment in the state."

CO-CHAIR FIELDS noted that the House Labor and Commerce Standing Committee had reported CSHJR 19(L&C) out of committee on May 3, 2021, without mentioning the fiscal note in the motion. He asked Co-Chair Spohnholz to "retake action" with a [corrected] motion.

[3:21:56 PM](#)

CO-CHAIR SPOHNHOLZ moved to report HJR 19, as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHJR 19(L&C) was reported out of the House Labor and Commerce Standing Committee.

#### **HB 159-CONSUMER DATA PRIVACY ACT**

[3:22:29 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be HOUSE BILL NO. 159, "An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements;



making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

CO-CHAIR FIELDS stated that the presentation of the sectional analysis had commenced during the meeting of the House Labor and Commerce Standing Committee on April 23, 2021. He said that the administration is working with stakeholders on what constitutes a "rewrite" of the bill and said that expert testimony would be heard during today's hearing. He said that the purpose of the invited testimony was to learn about the elements of the proposed legislation and to ensure that it would not be a burden on Alaska's businesses.

[3:24:11 PM](#)

JOSEPH JEROME, Director of Platform Accountability and State Advocacy, Common Sense Media, stated that he is a lawyer focusing on privacy issues, and that Common Sense Media has been involved in several privacy efforts across the country. He shared that there is a "general unease" about the volume of information collected from consumers and about its possible uses. He said companies are now facing global privacy rules including the European Union General Data Protection Regulation (EU GDPR), as well as privacy rules in India, Brazil, and Japan; the United States, he said, has "fallen behind." He said, "Animating this conversation is an endless stream of headlines documenting irresponsible data collection and use by tech companies." He said some of the biggest companies in the world testify about how burdensome a "patchwork of U.S. laws will be," and he opined that the "patchwork" already exists. He discussed the Health Insurance Portability and Accountability Act (HIPAA) and the Graham-Leach-Bliley Act (GLBA), both of which include privacy protection as an afterthought to larger regulatory efforts. Because of this sectoral approach, he said, there are gaps in privacy regulations. As an example, he asked the committee to consider the matter of student health; regulators don't fully appreciate that most Americans have "absolutely no grasp" of when their health information is protected by law. "For all the talk about HIPAA," he said, "student immunizations and other school health records are covered by our federal [Family] Educational Rights and Privacy Act (FERPA) - that's from 1974. FERPA, in turn, intersects with, and conflicts with, our Children's Online Privacy Protection Act, and that only covers the information of children under 13." He commented that such gaps in protection leave the general public to rely on state attorneys general, which often do not have adequate resources to police commonly-used technology.

MR. JEROME said that dozens of states have introduced dozens of privacy laws, but only California and Virginia have enacted such laws. There are several different privacy models to consider, he said, and states across the political spectrum have made progress. He pointed out that North Dakota introduced what he characterized as "probably the strongest single privacy law," and Oklahoma and Florida have debated similar laws up until the last day of their respective legislative sessions. He said that what Common Sense Media looks for in feasible privacy legislation is extra protections for kids and teens; limits on the abilities of advertisers and data brokers to circumvent the law; and real enforcement "teeth."

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CAITRIONA FITZGERALD, Deputy Director, Electronic Privacy Information Center (EPIC), shared that current laws in the U.S. state that companies may collect any consumer data, as long as the data's use(s) isn't misrepresented in the companies' privacy policies. She said that allowing an individual to know the data a company collects, and demand deletion of such data, puts the entire burden of data protection on the individual consumer; a good privacy bill would include strong data minimization provisions such as limiting data collection to what is reasonably necessary to provide a better service to the consumer. Another component of data minimization provisions, she said, would be the requirement that companies delete the personal data when it's no longer needed for the original purchase, which would blunt the impact of data breaches because there would be less data at risk. She said that secondary uses of data should be limited; downstream parties such as service providers that collect data should be subject to the same obligations as the original data collector.

MS. FITZGERALD then discussed promoting privacy-enhancing technologies, which would make it easier for consumers to enforce their right to privacy. She said that it's not realistic to expect Internet users to take multiple steps to opt out of data disclosure; every website uses banners to inform the user that it's collecting "cookies," and the website makes it difficult to allow users to opt out of data collection. There are global mechanisms that allow settings to be configured in Internet browsers that sent a signal to all websites saying that a user wants to disallow the sale of data. This mechanism is in the California Consumer Protection Act, she said, and technology

companies now comply with global privacy controls allowing consumers to opt out of having their data sold.

3:35:15 PM

HAYLEY TSUKAYAMA, Legislative Activist, Electronic Frontier Foundation (EFF), stated that strong laws require strong enforcement, and EFF often studies the enforcement sections of proposed legislation to determine not only how seriously consumers would be protected, but whether the proposed legislation addresses the widespread concern that drives the call for such legislation. She encouraged the committee to ensure adequate funding for enforcement mechanisms. She said the "right to cure," usually existing within the enforcement section of a bill, would give companies in violation of the law a period of time to correct the violation and avoid disciplinary action. She expressed that the right to cure is a "get out of jail free" card that would mean no consequences for companies that break the law, thus allowing consumers to be harmed with no remedy to address the harm. She said that the strongest enforcement mechanism EFF has seen is "private rights of action" (PRAs), which play out in privacy laws across the country. Illinois's Biometric Information Privacy Act contains a PRA, she said, and was used to bring suit against Facebook over its use of face recognition.

3:39:55 PM

MS. TSUKAYAMA discussed the importance of ensuring that consumers who exercise their right to privacy aren't penalized through mechanisms such as paying more for a service or being ineligible for discounts offered to the general public. She expressed approval for the prohibition on retaliation for exercising privacy rights under HB 159, but she noted that the proposed legislation still includes language regarding charges that vary according to the value provided by the consumer's data, which could open the door to privacy violations. She discussed "dark patterns," otherwise known as "coercive design," which she described as mechanisms to undermine consumer consent by presenting information in a certain way. A good example of coercive design, she said, is a request to collect data with the option to accept the request displayed in bright, colorful graphics, while the option to opt out is in small text. She discussed the possible harms of data abuse, pointing out that data use often exacerbates existing discrimination; information such as the high school a person went to can influence their mortgage worthiness. She said that using data algorithms to

make decisions should require a mechanism for transparency regarding the information that goes into the algorithm, and the algorithms themselves should be audited.

3:44:09 PM

MAUREEN MAHONEY, Senior Policy Analyst, Consumer Reports, shared that her comments would focus on the importance of covering targeted advertising in proposed legislation, which she characterized as an "under-discussed issue" in privacy legislation. She said that "targeted advertising" refers to data about consumer behavior that is shared with other companies for the use of directing ads to the consumer; consumers are constantly tracked, and said, and information about their online and offline activities is used to glean detailed insights into consumers' most personal characteristics. Everything from health conditions to political affiliations is used to deliver targeted advertising, she explained, which could lead to disparate outcomes along racial or ethnic lines. She pointed out that job or housing advertisements can target only certain consumer demographics. Covering such data transactions is one of the key motivators for consumer privacy legislation, she said, and she noted that many companies are working to undermine such legislation by adopting bad faith interpretations of such legislation, such as claiming that targeted advertising isn't covered by the law.

MS. MAHONEY urged the committee to keep the language in HB 159 regarding targeted advertising, and she noted that the definition of "personal information" in the proposed legislation covers information associated both with the consumer and with the household. She proposed adjusting the text of HB 159 to not require consumers to verify their identities in order to opt out of the sale of their information; since a lot of data used for tracking isn't associated specifically with a name or email address, she said, requiring identity verification would open a loophole for targeted advertising. Research done by Consumer Reports has shown that consumers have been asked to provide their social security or driver's license number in order to opt out of data distribution, she said, and consumers are uncomfortable sharing such information with an unknown data broker. She recommended adjusting the definition of "sale" within the text of HB 159 to include coverage of all data disclosures to a third party for a commercial purpose; the importance of such coverage, she said, is to ensure that companies aren't able to circumvent the regulation by not technically receiving money in the transaction.

3:48:42 PM

CO-CHAIR FIELDS noted the importance of hearing testimony from unbiased sources. He pointed out that there will be testimony from organizations that are funded by the businesses who practice stealing, reselling, or aggregating data.

3:49:16 PM

REPRESENTATIVE KAUFMAN mentioned Ms. Fitzgerald's discussion of essential elements to include in data privacy legislation and expressed interest in receiving a copy of the list. He then asked Ms. Mahoney to talk about the "Internet ecosystem" in which many services are "free" but use data as part of a company's business model.

MS. MAHONEY said that consumer privacy is a right which should be afforded to everyone regardless of their income or ability to pay; the baseline, she said, should be consumers' ability to safely use online services or apps without having their privacy compromised. If prices need to be adjusted to ensure online safety, she said, such an action could be appropriate.

REPRESENTATIVE KAUFMAN hypothesized about a company offering a mapping app with a "free" version that monetizes consumer data, or a "paid" version that does not monetize consumer data. He asked whether offering the two versions would be a form of discrimination.

MS. MAHONEY responded that consumers should have the basic right to use apps and services without having to compromise their privacy, and that consumers shouldn't have to pay more or less depending on their level of acceptance of privacy violations. She said that consumers should, at the very least, have the option of opting out of the targeted advertising ecosystem due to the lack of transparency in how data is used and monetized.

REPRESENTATIVE KAUFMAN expressed concern for protecting consumer privacy in an "effective and efficient" manner that doesn't jeopardize the benefits of data collection. He said that if data is a commodity, consumers should be able to give it away or profit from it. He expressed the perspective that, under Ms. Mahoney's model, consumers wouldn't have the option of allowing unfettered data collection. He asked Ms. Mahoney whether her vision of data privacy would prevent a consumer from commoditizing their own data.

MS. MAHONEY deferred to Mr. Jerome from Common Sense Media.

[3:55:02 PM](#)

MR. JEROME surmised that Representative Kaufman's question pertained to the relationship between secondary uses of information and general online advertising. He said that none of the consumer privacy proposals would end online advertising, and that it's important to acknowledge that some of the data collection business models aren't effective. He said that one-third of the money spent on online advertising ends up going to fake traffic and automated bots. Due to market dominance, he said, Google and Facebook comprise up to 60 percent of all online ad revenue; contextual advertising that does not invade consumer privacy is as effective as targeted advertising. A 2019 study found a revenue discrepancy of only 4 percent based on whether or not cookies were disabled, he said, which means that using personal data increases revenue by only .00008 cents per ad. He said that former digital advertisers at The New York Times and Washington Post have argued that the entire model is overhyped in its value to data publishers. He stated that the imposition of strong privacy rules would likely not have the negative impact many assume it would.

[3:57:23 PM](#)

REPRESENTATIVE SCHRAGE stated that he understands the concerns around racial targeting and the targeting of children. He then said that he doesn't understand how his privacy is being invaded by a company simply knowing what he views online, asserting that such targeted advertising could actually be of benefit in that it reduces his search time.

[3:58:17 PM](#)

MR. JEROME stated that the reality is that kids and teens could be "outed" if ads for issues around sexual orientation pop up on shared devices. He shared the example of a pregnant teenager whose family was informed of her pregnancy by targeted advertising. YouTube and Facebook are constantly in trouble for how they profile, he said. Kids can be profiled as "gamers," "impulsive purchasers," or "anxious overshareers," and are then targeted by ads encouraging more of those behaviors. Facebook has categorized hundreds of thousands of kids as "interested in gambling" or "interested in alcohol," and has told advertisers that they could identify teens who feel stressed, defeated,

anxious, or nervous, and could target such children with online advertising for coffee or makeup tutorials. He said that such commercial manipulation is endemic across the targeted advertising ecosystem.

REPRESENTATIVE SCHRAGE said that he understands the concerns about children but that he is still confused about the issue with cookies. He opined that targeted advertising has benefits in that companies may better tailor offerings to individuals based on their shopping habits.

[4:01:12 PM](#)

CO-CHAIR SPOHNHOLZ expressed the perspective that there are many ways in which data tracking is useful, sharing that she likes getting targeted ads for products in which she's interested. She then shared a personal experience in which a text exchange with her husband resulted in a Facebook advertisement within moments of the exchange. She said that Facebook is mining data in ways not anticipated by the average consumer, and parts of consumers' lives are now digitized in ways that had never before been imagined. She characterized data privacy as the "Wild West" and shared her concerns about the fact that a company in another state could be mining texts between herself and her husband for marketing purposes. She stated that there seems to be no expectation of privacy, reminding committee members that privacy issues were revealed by companies suing each other rather than by governmental regulation. She expressed that the government awareness and regulation of such issues lags behind actual business practices, and parents often don't know or understand the online environment in which their children are operating. She said that the right to privacy has been upheld many times in the last century by the U.S. Supreme Court and that there is a strong right to privacy in Alaska, and that ensuring a continued right to privacy is the responsibility of legislators.

[4:05:18 PM](#)

REPRESENTATIVE SNYDER shared that she does not find value in being the target of advertisements, expressing that she doesn't want to be tempted by the next piece of consumerism or for her online experience to be interrupted. She said that, regardless of the rationale, consumers should be able to say they don't want their data used in such ways.

[4:06:46 PM](#)



CO-CHAIR FIELDS stated his belief that Alaska has some of the strongest constitutional privacy protections in the country, and he characterized HB 159 as a discussion on how best to meet a constitutional privacy mandate. He shared his concern that biometric information and artificial intelligence (AI) replicates and perpetuates racist power structures. He said that the U.S. has less socioeconomic mobility than any other developed country and noted the recent case of Google's photo app placing photos of black people in albums called "gorilla albums." He wondered what should be considered in questions of biometric information, and he asked whether there exists a consensus that the model for such data in Illinois is the best one.

[4:08:27 PM](#)

MS. TSUKAYAMA responded that the Electronic Frontier Foundation (EFF) considers Illinois's model to be the "gold standard" of biometric privacy, pointing out that Co-Chair Fields' statement highlighted many of the concerns surrounding the use of biometric information. She stated that EFF advocates for a ban on government use of face recognition.

[4:09:21 PM](#)

MS. FITZGERALD stated her agreement with Ms. Tsukayama's statement and shared her understanding of Co-Chair Fields' concern that AI can be used to perpetuate systemic inequalities. She said society is now living with the consequences of allowing social media to self-regulate, and she expressed the hope that AI doesn't follow the same path. She said there exists language in various proposed legislations requiring companies to engage in activities such as impacts assessments before using new algorithms, and performing audits during the life of the activity to ensure that it's fair and nondiscriminatory.

[4:10:44 PM](#)

MR. JEROME expressed agreement with the previous statements and added that using biometric products to authenticate an individual can easily lead to profiling. He pointed out that Black people tend to represent as being "angrier" in many AI systems; in this context, he said, technology that analyzes whether students or employees are paying attention can be discriminatory.



4:12:06 PM

CO-CHAIR FIELDS expressed the desire to see an industry-funded mechanism to establish a strong state enforcement unit within the Department of Law, as well as a private right of action. He pointed out that Alaska doesn't have a large tech industry, and is not naturally going to have lawyers with tech industry experience working in the Office of the Attorney General. He expressed wanting a model for a robustly-funded enforcement wing of the Department of Law, and he asked whether the panelists' organizations would be interested in working with the committee to draft a model for enforcement to ensure adequate capacity in Alaska to police the companies with a record of inappropriate data use.

4:13:08 PM

MS. TSUKAYAMA responded that EFF has not yet seen what it would consider an adequately-funded department to address digital privacy laws. She said EFF would be happy to work with the committee on a private right of action and an agency to oversee the issues.

4:14:00 PM

CO-CHAIR FIELDS stated his desire to establish strong standards of enforcement for multinational companies that have a record of exploiting data information, as well as to ensure that the law's structure doesn't burden Alaska's small and medium-sized businesses that are using data to serve their customers. He asked whether there is a threshold for striking the right balance between capturing the multinational companies while protecting smaller businesses that collect information to conduct legitimate business.

MS. MAHONEY, on behalf of Consumer Reports, responded that there is no specific threshold to hit but that California, with its threshold of 50,000 users per year, or Virginia's threshold of 100,000 users per year, both ensure that small and medium-sized businesses aren't unduly affected by the law. She expressed that many privacy laws under discussion at the state level put few limits on a company's ability to collect data and advertise to their customers; the main concern is putting controls on the disclosure of data to third parties, and the associated sale and resale by data brokers.

4:16:30 PM

CHRIS KOA, Attorney, DataEsque Law Group PLLC, stated that he is a privacy, security, technology, and corporate attorney representing Lynden, Incorporated ("Lynden"). He explained that he is collaborating, in good faith and at the invitation of the governor, with several other Alaska companies that would be similarly impacted by the original version of HB 159. As initially drafted, he said, Lynden opposes the proposed legislation and would characterize it as among the most onerous state privacy laws in the country and that it would not be in the best interest of Alaska. He said that Lynden "conceptually" supports the goal of increasing privacy protections and wants to find ways to support that goal while ensuring that companies with primarily business-to-business ("B2B") models that don't engage in the sale of consumer data aren't adversely impacted, especially in the absence of corresponding consumer protection benefits that outweigh the anticipated burdens and costs to businesses. The goal, he said, is to find a middle ground that balances the interests of the administration, the Office of the Attorney General, the legislature, businesses, and consumers.

MR. KOA said that as a B2B company, Lynden focuses on using data solely to provide services requested by the customers, unlike business-to-consumer ("B2C") organizations that heavily use personal data. The initial draft of the proposed legislation, he said, would hurt B2B companies that don't sell personal information; that don't have high-risk business models that depend on heavy use of personal information; and have not engaged in systematic patterns of abuse. To ensure the ability of B2B companies like Lynden to continue to serve Alaska, he said, he recommends consideration and implementation of the critical amendments he submitted [included in the committee packet].

[4:21:11 PM](#)

MR. KOA expressed that the amended version of HB 159 would provide a more focused approach, intended to avoid burdening B2B companies such as Lynden, oil companies, mining, and telecommunications, which don't sell data, and which employ thousands of Alaskans while providing valuable services. Key suggestions for HB 159, he said, include the following: delete the standalone revenue threshold as a trigger for determining companies for regulation; exclude B2B contacts and employees from the scope of the proposed legislation; exclude personal data provided by a consumer for the purpose of providing a product or service requested by that consumer; delete the

private right of action and allow enforcement by the Office of the Attorney General; provide a cure period, especially for companies that are not repeat offenders; shorten the lookback period to one year; and clarify ways for companies to comply with reasonable security obligations.

MR. KOA stated Lynden's support for the goal of protecting consumer privacy in a manner consistent with how businesses operate and can respond, without disrupting a business's ability to serve Alaska, and without incurring costs and burdens without a corresponding consumer benefit. He said the intention for the suggestions reflected in the suggested amendments is to balance valid public policy interests and consumer privacy with the realities of business operations.

[4:25:56 PM](#)

REPRESENTATIVE KAUFMAN asked how much content is in a typical profile for an individual consumer.

MR. JEROME, on behalf of Common Sense Media, responded that the amount of content varies, and that data brokerage is a complicated ecosystem. The Federal Trade Commission, as well as a report from the World Privacy Forum called The Scoring of America, have made such information available. The challenge with companies such as Google and Facebook, he said, is that their information is not made available to consumers.

[4:27:53 PM](#)

REPRESENTATIVE SCHRAGE asked how multinational online companies determine which state privacy laws to follow. He expressed that he sees the merits of protecting privacy and wondered whether the issue would be better addressed at the federal level.

MS. FITZGERALD, on behalf of the Electronic Privacy Information Center, stated that the federal government has not moved to act on this issue, which is why states are beginning to act to protect citizens. Because it's difficult for large companies such as Google or Facebook to comply with many different state laws, she said, "The state with the strongest law sets the bar." She pointed out that companies are already complying with the European Union's General Data Protection Regulation.

[4:30:12 PM](#)

MS. MAHONEY, on behalf of Consumer Reports, noted that companies can identify a consumer's location based on a consumer's internet protocol (IP) address. She agreed that strong federal privacy legislation would be the goal, but in the absence of such legislation, states need to ensure that consumers have strong privacy protections.

[4:30:52 PM](#)

CO-CHAIR FIELDS referred to Mr. Koa's suggestion to delete the standalone revenue threshold and to exclude B2B contacts from the proposed legislation. He asked for discussion on the practicality of excluding B2B exchanges.

MS. MAHONEY said that, while there are a number of ways to determine an appropriate threshold for regulation, the number of consumers on which data is collected is an appropriate metric to consider. She stated that the main concern of Consumer Reports is to make sure consumers have strong privacy protections and that they are able to exercise their preferences.

[4:32:48 PM](#)

CO-CHAIR FIELDS announced that HB 159 was held over.

**PRESENTATION(S): Women in the Workforce & the Gender Pay Gap**

[Contains discussion of HB 146.]

[4:32:54 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be a presentation on Women in the Workforce & the Gender Pay Gap.

[4:33:19 PM](#)

KARINNE WIEBOLD, Economist, Research and Analysis, Administrative Services Division, Department of Labor and Workforce Development (DOLWD), presented a PowerPoint titled "Women & the Pandemic" [hard copy included in the committee packet]. She began her presentation with slide 2, which displayed graphs showing the percentages of men and women in the workforce, as well as corresponding average annual wages, over the past 30 years. She pointed out that both average annual wages and the workforce composition have been slowly converging, with women now comprising 48 percent of the workforce; however,

she said, wages for women are still lagging behind those for men. She said that the most significant change in the gender pay gap has occurred in the last couple of years; for the past 20 years, she said, average wages for women have been 68 percent of those for men, but it's recently risen to 72 percent.

MS. WIEBOLD presented slide 2, "Men Earn More in All Age Groups," which displayed a graph showing the wage gap widening with age. Teenage workers have a minimal wage gap, she said, and as the compounding employment history of men and women continues, the wage gap increases. She pointed out that averages wages peak when women are in their forties, while men's average wages continue to increase into their fifties before showing a slight decline into their sixties. The largest wage gap was among those between the ages of 50 and 59.

[4:38:32 PM](#)

MS. WIEBOLD moved to slide 4, "Men earn more at all education levels," which displayed a graph showing average men's and women's wages at various education levels. She pointed out that all wages increase with more education, but that the wage gap doesn't necessarily decrease; jobs that require only a high school education demonstrate a 61 percent earnings ratio, but positions that require a doctoral degree demonstrate a 70 percent earnings ratio. She said that in Alaska, women comprise a larger percentage of positions that require higher education. She then presented slide 5, "What does the national data tell us about the pandemic, and what was happening before?", and said that Alaska is not unique in the gender wage gap.

MS. WIEBOLD presented slide 6, "National Labor Force Participation Rates," and noted that individuals are considered part of the labor force if they are either working or looking for work. She said that men's labor force participation has been on a gradual decline over the past 20 years, with the past 10 years showing a more significant decline. Conversely, she said, labor force participation among women has been increasing. In 2020, she said, women's labor force participation rate dropped from 58 to 54.5 percent, while the rate for men went from 69 to 66 percent. Nationwide, she said, between January 2020 to January 2021, 1.8 million men left the labor force, compared to 2.5 million women; the setback from the pandemic has pushed women's labor force participation rate to that which was last seen in 1987.

[4:43:19 PM](#)

MS. WIEBOLD presented slide 7, "Unemployment Rates," and explained that women were hit harder by the immediate effects of the pandemic and have experienced a slower recovery. She pointed out that the unemployment rate for women was highest in April 2020 at 16.1 percent, while the rate for men at the same time was 13.6 percent. She then presented slide 8, "Where do Alaskan women work?", which displayed a pie chart showing that more than half of women work in state and local government, healthcare, and private education. Trade, transportation, and utilities, the sector which includes retail sales, was the third largest segment.

MS. WIEBOLD presented slide 9, "Alaska lost 27,200 jobs in 2020," which displayed a pie chart showing job loss by industry. The leisure and hospitality sector lost almost 10,000 jobs; trade, transportation, and utilities, including retail sales, lost 6,500 jobs. She noted that the leisure and hospitality sector employs approximately even proportions of men and women; however, the occupations within that sector that employ more women than men, such as waitstaff and housekeeping, were hit disproportionately hard by the pandemic. Government job losses, she said, tended to be in the areas of local government and schools, areas which tend to disproportionately employ women.

[4:49:57 PM](#)

MS. WIEBOLD presented slide 10, "Unemployment Insurance Claims-something we can see now," which read as follows [original punctuation provided]:

- × Historically, more men than women file for unemployment (60/40)
- × Claims are record high for both
- × Since the pandemic, more men than women have received UI.
- × BUT, women, as a percent of claimants, has grown more than men

[4:54:06 PM](#)

LAURIE WOLF, President and Chief Executive Officer, The Foraker Group, presented a PowerPoint titled "The Gender Pay Gap in Alaska" [hard copy included in the committee packet]. She shared that approximately 17 percent of Alaskans work for a nonprofit organization, and that approximately 65 percent of the employees are women, compared to the 48 percent workforce

participation rate for women in Alaska. She said that, despite passage of the Equal Pay Act in 1963, which mandated equal pay for equal work, the gender pay gap persists in Alaska and nationwide. She presented slide 2, "What's in a day?", and pointed out that March 24 is Equal Pay Day in the United States, which represents how far into the new year women would have to work in order to make the same salary of their male counterparts in the previous year. She said that the date shifts when factoring in issues such as race or motherhood; Equal Pay Day is March 9 for Asian and Pacific Islander women; August 3 for Black women; September 8 for Native American women; and October 21 for Latina women. She said that the impact of COVID-19 will hit working mothers especially hard, as the lack of child care or school closures force more women than men out of the workforce.

4:58:09 PM

MS. WOLF presented slide 3, "Too Long to Wait," which read as follows [original punctuation provided]:

#### **257 YEARS**

At the current rate of change, the gender pay gap in Alaska won't disappear until the year 2277.

MS. WOLF presented slide 4, "The Gender Pay Gap in Alaska," which showed that Alaskan women earn 72 cents for each dollar men earn; in the nonprofit sector, women earn 79 cents. She then presented slide 5, "The Gender Wage Gap is Real," which displayed a graphic showing the average wages for men and women in the nonprofit sector compared to for-profit wages. She then presented slide 5, "Loss of Pay Over a Lifetime," stating that the average women loses over \$530,000 over her lifetime because of the gender wage gap; the average college-educated woman loses over \$800,000 over a lifetime.

MS. WOLF presented slide 7, "Traditionally-Female Occupations Pay Less," which read as follows [original punctuation provided]:

The gender pay gap is smaller within traditionally-female occupations, but traditionally-male occupations pay higher wages. Only 6% of Alaska's female workers are employed in traditionally-male occupations. For nonprofits, the figure is only 2%.

MS. WOLF presented slide 8, "Why Legislation Matters," and she stated that fair and equitable pay is the law in the U.S. Slide 8 read as follows [original punctuation provided]:

Steps you can take:

Publish pay ranges in job announcements.  
Don't ask for an applicant's pay history.  
Share total compensation not just the wage so all employees understand the full value of benefits and salary.

MS. WOLF said that HB 146, introduced during the House Labor and Commerce Standing Committee meeting on April 23, would take "monumental" steps in the right direction by establishing provisions to prohibit certain workplace policies that could lead to pay inequity, such as prohibiting employers from using prior wages to determine future compensation, codifying the right of employees to inquire about their co-workers' compensation, and requiring employers to disclose the range of salaries on job listings.

[5:04:09 PM](#)

HILARY MORGAN, President and Chief Executive Officer, Resourceful Results, LLC, offered a PowerPoint presentation titled "EconEquity; Gender Pay Gap in Alaska" [hard copy included in the committee packet]. She presented slide 2, "EconEquity," which read as follows [original punctuation provided]:

- 1963. Equal Pay Act passes
  - Women earned 59 cents on the dollar nationally.
- 2014. 51 years later
  - Women earned 79 cents on the dollar nationally

MS. MORGAN presented slide 3, which read as follows [original punctuation provided]:

- 2021. Nationally
  - women earn 82 cents on the dollar.
- 2019. Alaska Economic Trends
  - Alaska Women earned 72 cents on the dollar.



MS. MORGAN presented slide 4, which read as follows [original punctuation provided]:

The pay disparity is more pronounced for women who are Black, Indigenous or people of color; ranging nationally from 55 cents for Latinx women to 63 cents for Black women in 2021.

In Alaska, these figures are even lower.

MS. MORGAN noted that her data is somewhat outdated, and she urged committee members to concentrate on the message. She presented slide 6, which read as follows [original punctuation provided]:

The pay gap has closed only 5¢ between 1990 and 2014.

Without action, Alaskan women won't have equal pay until 2142.

MS. MORGAN presented slide 7, "Equal Pay Adds Up." She pointed out that women are increasingly the primary earner, and are the sole earner in 40 percent of U.S. households. She said that it's estimated that closing the gender wage gap would decrease the poverty rate for working women and their families by 50 percent; as women are increasingly the primary or sole earner in their families, it's critical that women are paid equal to men.

[5:08:10 PM](#)

MS. MORGAN presented slide 8, which read as follows [original punctuation provided]:

"We need to understand why there is a gap."  
No. Act now and figure out why along the way.

"Well, you know men are stronger."  
In 2017, Alaska female lawyers earned 77 cents for every dollar their male counterpart earned.

MS. MORGAN presented slide 9, "The wage gap persists regardless of industry," and slide 10, "Ratio of Women's to Men's Earnings by Industry, Alaska 2010," which displayed a graph of industries showing the array of Alaskan industries and their gender wage gaps. She then presented slide 11, "The wage gap is present within occupations," and slide 12, "Earnings gap smaller in occupations dominated by women," which displayed a bar graph

showing female-dominated occupations. She pointed out that 89 percent of registered nurses are women, yet they earn only 95 percent of what male registered nurses earn.

MS. MORGAN presented slide 13, "The wage gap exists regardless of education level," and slide 14, which displayed a graphic showing that Alaskan women with a bachelor's degree are paid 63 percent of what men with the same education level are paid. She stated that women with graduate or professional degrees are also paid less than men with a bachelor's degree, and women with a bachelor's degree are paid less than men with even lower education levels. She said, "Unfortunately, in Alaska, women do not see the same return to their education that men see."

MS. MORGAN presented slide 15, "Alaskan businesses and community are ready for change," which read as follows [original punctuation provided]:

Between May 2014 and January 2018, EconEquity asked 132 businesses, organizations, politicians and individuals to endorse closing the gender pay gap in Alaska by 2025.

Only 5 declined.

MS. MORGAN presented slide 16, which read as follows [original punctuation provided]:

- EconEquity asked for demonstrated support through a signed endorsement.
- The Endorsement asked only for 3 things of the signer:
  - an acknowledgement that the pay gap existed,
  - that they stand with us as we eliminated the gap,
  - that is be signed by the CEO or Chairperson of the Board.

MS. MORGAN presented slides 17-20, which listed dozens of businesses and individuals who endorse gender pay equity. She said that the list of endorsers are posted on the EconEquity website, and the list of companies who decline to sign the endorsement are listed once a year in the program of the EconEquity Summit. She said that the simple act of asking a company to endorse gender pay equity resulted in the company becoming aware of their own gender pay equity status.

[5:14:19](#)

MS. MORGAN presented slide 21, "Women make less in every part of Alaska," which displayed a map of Alaska's boroughs and showed each borough's gender pay gap using data from 2019. She then presented slide 22, which read as follows [original punctuation provided]:

- The persistent wage gap between working men and women is a barrier to women's success and to the success of Alaska.
- When women are underpaid and undervalued, it is more challenging for them to pay off student debt, provide for their families, contribute to their communities, and save for retirement.
- Women's options become limited and so does their ability to strengthen our businesses and our state.

[5:15:31 PM](#)

CO-CHAIR FIELDS commented that two pieces of proposed legislation, focusing on addressing child care issues and wage disclosures, have been reported from the House Labor and Commerce Standing Committee.

[5:16:37 PM](#)

REPRESENTATIVE SCHRAGE asked about the lack of maternity policies and the effect on the gender pay gap.

[5:17:05 PM](#)

MS. MORGAN shared that one of the problems with not having equal opportunities for maternity and paternity leave is that women who take maternity leave often subsequently lose seniority in the workplace. She said that this is a reason why single mothers in Alaska earn less than single fathers, even when controlling for the number of children. She said that by offering paternity leave as well as maternity leave, companies may begin to level the playing field.

MS. WOLF added that as of 2018, a mother's wage decreases approximately 4 percent per child, while a father's wage increases approximately 8 percent. She said that, as of three years after childbirth, only 28 percent of mothers work full

time or are self-employed, compared to 90 percent of fathers. She encouraged committee members to consider the concept of "family leave" as opposed to "maternal or paternal leave," due to the likelihood of women being in the position of caring for parents as well as children.

REPRESENTATIVE SCHRAGE noted the 8 percent increase of wages for fathers, and he asked why a father's wage would increase after having children.

MS. WOLF replied that there is research showing that men are, in general, better advocates for pay increases and are encouraged to negotiate for better pay. She discussed bias around the idea that men, as opposed to women, need to provide for their families.

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CO-CHAIR FIELDS added, "The literature does indicate that employers see the necessity of fathers providing for their children, and are actually very willing to give them wage increases, but don't have that same inclination with women."

[5:20:51 PM](#)

REPRESENTATIVE SNYDER shared her agreement with the idea of "family leave" and pointed out that her maternity leave was unpaid and limited to six weeks.

[5:22:12 PM](#)

REPRESENTATIVE MCCARTY shared that his son-in-law is a stay-at-home father. He asked for copies of the research.

MS. WOLF replied that the research is published on The Foraker Group website and that there are links to additional studies.

[5:23:27 PM](#)

CO-CHAIR FIELDS commented on the value of paid family leave.

[5:23:53 PM](#)

CO-CHAIR SPOHNHOLZ mentioned that committee members have copies of studies of the gender pay gap by education and occupation. She said, "What we know now is that the gender pay gap starts from the first job ... and then it builds on itself over the

course of a career." She said that it's always been supposed that more education would solve the problem, but that studies show that women need doctorate degrees in order to earn as much as a man with a bachelor's degree. She commented that fields dominated by women earn less than those dominated by men, and that even in fields dominated by women, men earn more and advance more quickly. She said women were overrepresented in fields that were disproportionately affected by the COVID-19 pandemic, and that when there is an issue with child care, the rational decision is that the parent who earns less money is the parent who will stay home with the kids. She said that even women who weren't in occupations impacted by the pandemic tended to leave the workplace to care for their children. She pointed out that the policy changes recommended by Ms. Wolf align with the legislation proposed in HB 146, sponsored by Representative Snyder.

[5:29:02 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:29 p.m.